

Executive Summary – Enforcement Matter – Case No. 49724

City of Kilgore

RN102079985

Docket No. 2014-1777-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Kilgore WWTP, located at 2701 Angeline Street, approximately 0.7 mile east and 0.4 mile north of the intersection of U.S. Highway 259 and Farm-to-Market Road 2204, Kilgore, Gregg County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 20, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,300

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$21,300

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49724
City of Kilgore
RN102079985
Docket No. 2014-1777-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: August 7, 2014
Date(s) of NOE(s): November 7, 2014

Violation Information

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(4), and Texas Pollutant Discharge Elimination System Permit No. WQ0010201001, Permit Conditions No. 2.g.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By August 8, 2014, the Respondent had implemented the following:

- a. Unstopped the eight inch sewer main;
- b. Capped the overflow pipe;
- c. Removed and properly disposed of wastewater debris and wastewater;
- d. Cleaned and disinfected the affected area of the creek bank;
- e. Flushed the drainage ditch and creek segment with potable water;
- f. Removed and properly disposed of dead fish;
- g. Measured the dissolved oxygen levels; and
- h. Returned the stream to normal conditions.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 49724
City of Kilgore
RN102079985
Docket No. 2014-1777-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Chris Bost, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4575; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: The Honorable R.E. Spradlin III, Mayor, City of Kilgore, 815 North Kilgore Street, Kilgore, Texas 75662

Respondent's Attorney: N/A



Policy Revision 4 (April 2014)

Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	17-Nov-2014	PCW	5-Dec-2014	Screening	24-Nov-2014	EPA Due	
--------------	-----------------	-------------	------------	------------	------------------	-------------	----------------	--

RESPONDENT/FACILITY INFORMATION

Respondent	City of Kilgore	
Reg. Ent. Ref. No.	RN102079985	
Facility/Site Region	5-Tyler	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	49724	No. of Violations	1
Docket No.	2014-1777-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Raymond Mejia
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	67.0%	Enhancement	Subtotals 2, 3, & 7	\$10,050
---------------------------	-------	-------------	--------------------------------	----------

Notes: Enhancement for five months of self reported effluent violations, one NOV with dissimilar violations, and two orders with denial.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	------	-------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$3,750
--	-------------------	----------

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	------	--------------	-------------------	-----

Total EB Amounts	\$5
Estimated Cost of Compliance	\$17,769

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,300
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$21,300
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,300
-----------------------------------	-------------------------------	----------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
-----------------	------	-----------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$21,300
------------------------	----------

Screening Date 24-Nov-2014

Docket No. 2014-1777-MWD-E

PCW

Respondent City of Kilgore

Policy Revision 4 (April 2014)

Case ID No. 49724

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102079985

Media [Statute] Water Quality

Enf. Coordinator Raymond Mejia

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 67%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five months of self reported effluent violations, one NOV with dissimilar violations, and two orders with denial.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 67%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 67%

Screening Date 24-Nov-2014
Respondent City of Kilgore
Case ID No. 49724
Reg. Ent. Reference No. RN102079985
Media [Statute] Water Quality
Enf. Coordinator Raymond Mejia
Violation Number 1

Docket No. 2014-1777-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(4), and Texas Pollutant Discharge Elimination System Permit No. WQ0010201001, Permit Conditions No. 2.g.

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on August 7, 2014. Specifically, an eight inch sewer main stopped up, which resulted in an unauthorized discharge of wastewater on August 6, 2014. An estimated 12,000 to 16,500 gallons of wastewater discharged from a manhole overflow pipe into a concrete culvert which entered Turkey Creek, resulting in a fish kill of approximately 25 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or the environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one
with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two daily events are recommended from the date of the discharge (August 6, 2014) to the date of compliance (August 8, 2014).

Good Faith Efforts to Comply

25.0%

Reduction \$3,750

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on August 8, 2014.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$21,300

This violation Final Assessed Penalty (adjusted for limits) \$21,300

Economic Benefit Worksheet

Respondent City of Kilgore
Case ID No. 49724
Reg. Ent. Reference No. RN102079985
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$188	6-Aug-2014	8-Aug-2014	0.01	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$17,581	6-Aug-2014	8-Aug-2014	0.01	\$5	n/a	\$5
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to cap the overflow bypass. Date required is the date of the unauthorized discharge. Final date is the date the corrective actions were completed.

Other delayed cost includes the actual cost for the Respondent to unstop the eight inch sewer main, remove and properly dispose of wastewater debris and wastewater, clean and disinfect the affected area of the creek bank, flush the drainage ditch and creek segment with potable water, remove and properly dispose of dead fish, measure the dissolved oxygen levels, and return the stream to normal conditions. Date required is the date of the unauthorized discharge. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$17,769

TOTAL

\$5

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600676522, RN102079985, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600676522, City of Kilgore

Classification: SATISFACTORY

Rating: 15.54

Regulated Entity: RN102079985, CITY OF KILGORE WWTP

Classification: SATISFACTORY

Rating: 15.54

Complexity Points: 10

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: LOCATED AT 2701 ANGELINE STREET, APPROXIMATELY 0.7 MILE EAST AND 0.4 MILE NORTH OF THE INTERSECTION OF UNITED STATES HIGHWAY 259 AND FARM-TO-MARKET ROAD 2204, KILGORE, GREGG COUNTY, TEXAS, WITH AN ASSOCIATED COLLECTION SYSTEM AND MANHOLE LOCATED IN THE 700 BLOCK OF FLOREY STREET

TCEQ Region: REGION 05 - TYLER

ID Number(s):

WASTEWATER PERMIT WQ0010201001

WASTEWATER EPA ID TX0026557

WASTEWATER AUTHORIZATION R10201001

AIR NEW SOURCE PERMITS ACCOUNT NUMBER GJ02020

WASTEWATER LICENSING LICENSE WQ0010201001

STORMWATER PERMIT TXR05Q440

SLUDGE REGISTRATION 23079

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: January 05, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 05, 2010 to January 05, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Raymond Mejia

Phone: (512) 239-5460

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 05/22/2011 ADMINORDER 2010-1013-MWD-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov:Interim Eff Lim and Mon Req. PERMIT

Description: Failure to comply with permitted effluent limitations for carbonaceous biochemical oxygen demand, dissolved oxygen, and total suspended solids, as documented during a record review conducted on May 24, 2010.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov:Chronic Biomonitoring Requirements PERMIT

Description: Failure to timely submit the DMR for whole effluent toxicity ("WET") at the intervals specified in the permit, as documented in a record review conducted on May 24, 2010. Specifically, the quarterly WET DMR for the period ending September 30, 2009 and the semiannual WET DMR for the period ending December 31, 2009 were not submitted by their respective due dates.

2 Effective Date: 11/11/2012 ADMINORDER 2012-0709-MWD-E (1660 Order-Agreed Order With Denial)

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.176(a)

Description: Failure to enact and enforce rules, ordinances, orders or resolutions to control and regulate the type, character, and quality of waste discharged into the City's wastewater collection system and require pretreatment of the waste so as to be protective of the health and safety of personnel maintaining and operating the disposal system, and to prevent unreasonable adverse effects on the disposal system and the receiving stream.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	January 29, 2010	(789568)
Item 2	February 18, 2010	(791184)
Item 3	September 09, 2010	(874276)
Item 4	November 10, 2010	(888353)
Item 5	March 10, 2011	(916694)
Item 6	April 06, 2011	(925960)
Item 7	June 14, 2011	(945759)
Item 8	January 10, 2012	(990970)
Item 9	August 14, 2012	(1027188)
Item 10	April 05, 2013	(1096074)
Item 11	July 09, 2013	(1117552)
Item 12	August 28, 2013	(1125328)
Item 13	December 06, 2013	(1147514)
Item 14	March 06, 2014	(1167559)
Item 15	June 05, 2014	(1199174)
Item 16	August 28, 2014	(1212585)
Item 17	September 12, 2014	(1206172)
Item 18	December 09, 2014	(1211510)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 01/31/2014 (1160904)	CN600676522	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 03/31/2014 (1174680)	CN600676522	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 04/18/2014 (1159372)	CN600676522	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to comply with permit conditions in regards to inspecting and investigating conditions relating to the quality of water in the state.		
4	Date: 04/30/2014 (1180878)	CN600676522	

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

5 Date: 05/31/2014 (1187784) CN600676522
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

6 Date: 07/31/2014 (1199175) CN600676522
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF KILGORE
RN102079985**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-1777-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Kilgore (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 2701 Angeline Street, approximately 0.7 mile east and 0.4 mile north of the intersection of United States Highway 259 and Farm-to-Market Road 2204 in Kilgore, Gregg County,

Texas (the "Facility") with an associated collection system and manhole located in the 700 block of Florey Street, Kilgore, Texas.

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on August 7, 2014, TCEQ staff documented that an eight inch sewer main stopped up, which resulted in an unauthorized discharge of wastewater on August 6, 2014. An estimated 12,000 to 16,500 gallons of wastewater discharged from a manhole overflow pipe into a concrete culvert which entered Turkey Creek, resulting in a fish kill of approximately 25 fish.
4. The Respondent received notice of the violations on November 10, 2014.
5. The Executive Director recognizes that by August 8, 2014, the Respondent had implemented the following corrective measures:
 - a. Unstopped the eight inch sewer main;
 - b. Capped the overflow pipe;
 - c. Removed and properly disposed of wastewater debris and wastewater;
 - d. Cleaned and disinfected the affected area of the creek bank;
 - e. Flushed the drainage ditch and creek segment with potable water;
 - f. Removed and properly disposed of dead fish;
 - g. Measured the dissolved oxygen levels; and
 - h. Returned the stream to normal conditions.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(4), and Texas Pollutant Discharge Elimination System Permit No. WQ0010201001, Permit Conditions No. 2.g.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Twenty-One Thousand Three Hundred Dollars (\$21,300) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Twenty-One Thousand Three Hundred Dollar (\$21,300) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-One Thousand Three Hundred Dollars (\$21,300) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Kilgore, Docket No. 2014-1777-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

City of Kilgore
DOCKET NO. 2014-1777-MWD-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Morin
For the Executive Director

5/8/15
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Kilgore. I am authorized to agree to the attached Agreed Order on behalf of the City of Kilgore, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Kilgore waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

R. E. Spradlin, III
Signature

1/28/2015
Date

R. E. SPRADLIN, III
Name (Printed or typed)
Authorized Representative of
City of Kilgore

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.